

AMENDED IN SENATE MARCH 27, 2006

SENATE BILL

No. 1335

Introduced by Senator Soto

February 17, 2006

~~An act to add Section 1550.2 to the Health and Safety Code, relating to foster care. An act to amend Section 1534 of the Health and Safety Code, relating to community care facilities.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1335, as amended, Soto. ~~Foster care: health and dental services. Licensed community care facilities: licensing inspections: residential care for children.~~

Existing law, the Community Care Facilities Act, provides for the licensure and regulation of community care facilities, including group homes and foster family homes, by the State Department of Social Services. Existing law provides for the certification of foster homes by foster family agencies.

~~Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons receive health care benefits, including, for certain minors, semiannual dental examinations.~~

~~Existing law provides for the Child Health and Disability Prevention program, pursuant to which counties are required to provide, or contract for the provision of, specified health care services for children.~~

~~This bill would allow the department to deny or revoke the license of a group home or foster family home, or to require a foster family agency to deny or revoke the certificate of approval of a foster home, that does not obtain for each foster child certain health services~~

~~offered through the Child Health and Disability Prevention program on an annual basis, and, for each child eligible for semiannual dental examinations under the Medi-Cal program, a dental examination on a semiannual basis.~~

Existing law requires the department to visit every licensed community care facility as often as necessary to ensure the quality of care provided, and to conduct an annual unannounced visit to a facility under certain circumstances.

This bill would include when a facility provides residential care for children who are under the supervision of a county welfare or probation agency, among those circumstances under which the department is required to conduct an annual unannounced visit.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1534 of the Health and Safety Code is
2 amended to read:

3 1534. (a) (1) Every licensed community care facility shall be
4 subject to unannounced visits by the department. The department
5 shall visit these facilities as often as necessary to ensure the
6 quality of care provided.

7 (A) The department shall conduct an annual unannounced visit
8 to a facility under any of the following circumstances:

9 (i) When a license is on probation.

10 (ii) When the terms of agreement in a facility compliance plan
11 require an annual evaluation.

12 (iii) When an accusation against a licensee is pending.

13 (iv) When a facility requires an annual visit as a condition of
14 receiving federal financial participation.

15 (v) In order to verify that a person who has been ordered out
16 of a facility by the department is no longer at the facility.

17 (vi) *When a facility provides residential care for children who*
18 *are under the supervision of a county welfare or probation*
19 *agency.*

20 (B) The department shall conduct annual unannounced visits
21 to no less than 10 percent of facilities not subject to an evaluation
22 under subparagraph (A). These unannounced visits shall be
23 conducted based on a random sampling methodology developed

1 by the department. If the total citations issued by the department
2 exceed the previous year's total by 10 percent, the following year
3 the department shall increase the random sample by an additional
4 10 percent of the facilities not subject to an evaluation under
5 subparagraph (A). The department may request additional
6 resources to increase the random sample by 10 percent.

7 (C) Under no circumstance shall the department visit a
8 community care facility less often than once every five years.

9 (D) In order to facilitate direct contact with group home
10 clients, the department may interview children who are clients of
11 group homes at any public agency or private agency at which the
12 client may be found, including, but not limited to, a juvenile hall,
13 recreation or vocational program, or a nonpublic school. The
14 department shall respect the rights of the child while conducting
15 the interview, including informing the child that he or she has the
16 right not to be interviewed and the right to have another adult
17 present during the interview.

18 (2) The department shall notify the community care facility in
19 writing of all deficiencies in its compliance with the provisions
20 of this chapter and the rules and regulations adopted pursuant to
21 this chapter, and shall set a reasonable length of time for
22 compliance by the facility.

23 (3) Reports on the results of each inspection, evaluation, or
24 consultation shall be kept on file in the department, and all
25 inspection reports, consultation reports, lists of deficiencies, and
26 plans of correction shall be open to public inspection in the
27 county in which the facility is located.

28 (b) (1) Nothing in this section shall limit the authority of the
29 department to inspect or evaluate a licensed foster family agency,
30 a certified family home, or any aspect of a program where a
31 licensed community care facility is certifying compliance with
32 licensing requirements.

33 (2) Upon a finding of noncompliance by the department, the
34 department may require a foster family agency to deny or revoke
35 the certificate of approval of a certified family home, or take
36 other action the department may deem necessary for the
37 protection of a child placed with the family home. The family
38 home shall be afforded the due process provided pursuant to this
39 chapter.

1 (3) If the department requires a foster family agency to deny
2 or revoke the certificate of approval, the department shall serve
3 an order of denial or revocation upon the certified or prospective
4 foster parent and foster family agency that shall notify the
5 certified or prospective foster parent of the basis of the
6 department's action and of the certified or prospective foster
7 parent's right to a hearing.

8 (4) Within 15 days after the department serves an order of
9 denial or revocation, the certified or prospective foster parent
10 may file a written appeal of the department's decision with the
11 department. The department's action shall be final if the certified
12 or prospective foster parent does not file a written appeal within
13 15 days after the department serves the denial or revocation
14 order.

15 (5) The department's order of the denial or revocation of the
16 certificate of approval shall remain in effect until the hearing is
17 completed and the director has made a final determination on the
18 merits.

19 (6) A certified or prospective foster parent who files a written
20 appeal of the department's order with the department pursuant to
21 this section shall, as part of the written request, provide his or her
22 current mailing address. The certified or prospective foster parent
23 shall subsequently notify the department in writing of any change
24 in mailing address, until the hearing process has been completed
25 or terminated.

26 (7) Hearings held pursuant to this section shall be conducted in
27 accordance with Chapter 5 (commencing with Section 11500) of
28 Division 3 of Title 2 of the Government Code. In all proceedings
29 conducted in accordance with this section the standard of proof
30 shall be by a preponderance of the evidence.

31 (8) The department may institute or continue a disciplinary
32 proceeding against a certified or prospective foster parent upon
33 any ground provided by this section, enter an order denying or
34 revoking the certificate of approval, or otherwise take
35 disciplinary action against the certified or prospective foster
36 parent, notwithstanding any resignation, withdrawal of
37 application, surrender of the certificate of approval, or denial or
38 revocation of the certificate of approval by the foster family
39 agency.

1 (9) A foster family agency's failure to comply with the
2 department's order to deny or revoke the certificate of
3 employment by placing or retaining children in care shall be
4 grounds for disciplining the licensee pursuant to Section 1550.

5 ~~SECTION 1. Section 1550.2 is added to the Health and~~
6 ~~Safety Code, to read:~~

7 ~~1550.2. (a) The department may deny or revoke the license~~
8 ~~of a group home or foster family home, or may require a foster~~
9 ~~family agency to deny or revoke the certificate of approval of a~~
10 ~~foster home, that does not obtain for each foster child the health~~
11 ~~services specified in paragraphs (3) to (10), inclusive, of~~
12 ~~subdivision (a) of Section 124040 on an annual basis, and, for~~
13 ~~each child eligible for semiannual dental examinations under the~~
14 ~~Medi-Cal program, a dental examination on a semiannual basis.~~

15 ~~(b) A violation of this section shall not constitute a crime~~
16 ~~under Section 1540.~~